

17-35-93

G. R. S. IX-5]

Previous references.

1892-93

192 .

(L.R.)

File No. 176-92

Serial Nos. 1-5

Later references.

L.R. 1393-26

GENERAL AND REVENUE SECRETARIAT

Serial Nos. 1-5

In Part B for September 18 73

SUBJECT.

Appeal of Chick Venkatadri, regarding the
Pateli of Honamoru Village, Bangalore
Taluk

Continued
95/11/12/13

Indexed
11/12/13

By 1868

Appeal Suit No 55
of 1891-93

Appellant (Plaintiff):—

Chikka Venkatadri of
Horamavu, Bangalore Taluk.

Respondents (Defendants):—

1. Peyappa
2. Chikka Mannappa
of the same village.

In July 1891, the Plaintiff filed a suit in the court of the Deputy Commissioner of Bangalore, to recover the office of Patel of Horamavu from the first Defendant. The plaint was that Kuttappa and Ramanna were two of the sons of Vadamalappa, the original founder of the family, that the Plaintiff and the 1st Defendant were the sons of Kuttappa's eldest son and

daughter respectively, and the 2nd Defendant was the son of Ramanna, that the Plaintiff's forefathers were the Hakkars to the Pateli of Horamavu, that it was at first registered in the name of Ramanna, that he was doing the work, ~~and~~ ^{that} in his old age Doddaradamanna, Plaintiff's father did the work and on the latter's death, Ramanna was getting the work done by the 1st Defendant as the Plaintiff was then a minor, that Ramanna died about 11 years back, and the Plaintiff came to know lately that subsequent to Ramanna's death the 1st Defendant was appointed to the office, that the 1st Defendant had no right whatever to the office, and being Kuttappa's daughter's son belonged to a family different from that of the Plaintiff, that the Plaintiff was literate and that the cause of action occurred about a year back when the 1st Defendant refused to leave the office to Plaintiff.

The 1st Defendant filed
a

a written statement to the effect that the office in question did not belong to the Plaintiff's forefathers, that it was first given to Ramanna in 1875, that ~~both~~ ^{it} after holding for some time he resigned it in favour of the 1st Defendant, that the latter was registered as Patel, since he did the work for two years before the former's death, that ~~Ramanna~~ the Plaintiff and the 2nd Defendant having been acquiescent were estopped, that the said Ramanna and his son the 2nd Defendant deposed before the Laluk Peshkar and the Shekdar to the effect that the Pateli might be registered in Peyappa's name, that the Deputy Commr's order dated 28th Feby 80 directing the 1st Defendants' appointment was final, and that the suit was barred by the Law of Limitation.

The 2nd Defendant deposed that Ramanna died about

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9 years ago, that the 1st Defendant had been discharging the duties as he was told ^{by Ramanna} to do so till the sons of Dodda Vadamanna and Dodda Mannappa, who were then going to school, ^{would} finish their education, and that he (2nd Defendant) was living jointly with the Plaintiff and therefore had no objection to his appointment as Patel.

The General Assistant Commissioner who made the preliminary enquiry framed the following issues:—

- (1) Is the Plaintiff entitled to the office of the Patel of Horamavu?
- (2) Did Ramanna the original registered holder get the office registered in the name of the 1st Defendant? If so, were the Plaintiff and the 2nd Defendant consenting parties to it; and is the deposition of the 2nd Defendant dated 28th June 1879 - genuine?
- (3) Is the suit barred.

The Plaintiff filed
the

the following exhibits.—

A. The Pateli Register of 1874.

In it Ramegonda's name is mentioned in column 4 against that of Horamavu in column 3.

* the headings are taken.

B. Statement of Payment of "compensation" to Patels for 1875-76 & 1876-77. It contains the name of Ramegonda in the column "officiator", and the signature of "Varamavu Ramegonda" in the last column, against Horamavu.

C. Statement of payment of "Compensation in ~~lieu~~ lieu of Miras" to Patels for 1877-78. It contains the name of Ramegonda in the column "Patel", and, in the column "Date of payment & Signature", the signature of Ramanna with a remark "to the hands of this man's son Ramanna".

D. Deposition of Ligalala Ramanna and others of Horamavu, dated 18th July 1868.—

"Question:— Has your village had a Gonda from the beginning? If so, what is his name? Is there a custom here of paying me."

to him either from Govt or from yourselves? Have you the custom of doing him "Modala Maryade" and other honours?

"Answer:— 'We have not heard since our boyhood either from our elders or others that there was no Gouda to the said village, that no Gouda-mies was being given to either by Govt or by us, and that no "Goudike-Vilya" or such other honours were being done to him.

Even when any Sarkar-work was to be done, it is Ramanna alone that goes to Sarkar and gets the matter settled.'

* This ~~passage~~ ^{sentence} is very obscene

x This sentence is in a smaller hand than the rest and is inserted at the end of the paragraph

"Q.— 'An order about the appointment of Gouda has been received from Govt. A man will have to be appointed as Gouda. What do you say about this?'

"A.— 'The authorities may appoint whomever they please; we are glad'

x x x x "

E. Shanthop's report dated July 1868 states to have been submitted as ordered by the

the Amildar for the purpose of carrying out the Nazam order regarding the appointment of Gondas. It is as follows.—

" From the beginning there has been no Gonda receiving mias in Inam, godi, Batayi &c. and being the foremost man among the people. There are no records bearing on the subject. I have never heard anything (about it) from my elders; nor have I known ~~to~~ ~~any~~ it since I became the Shanthof.

x x x x

" The man that is considered by as Gonda by all in the village is Tigalara Ramanna. In marriage and other occasions he is given "Lambila" as yajaman and a respectable man. There is nothing besides this." This report is signed by Shanthof Ramachandrasaia and his son Venkatasagiraia and the Shekdar.

The 1st Defendant filed exhibits I to VI.

I & II. Acquittance Rolls of Pats for 1884-85 & 1885-86, respectively.

III. Deposition of the 2nd Defendant given in the Laluk Catcherry on 28th June 1879. It is to the effect that Pyayappa is his own sister's son and lives jointly with him, that he (2nd def^t) is illiterate, that as writing is necessary for one to do the Pateli work, he consulted with his father and has settled that the Pateli should be given to Pyayappa; that his father has given deposition, and that the Pateli should be registered in Pyayappa's name.

IV Deposition of the 1st Defendant of the same date as the ~~above~~ above.

V Shikdar's report - No 702, dated 11-10-78, recommending the appointment of Pyayappa in place of Ramanna who was old and could not do the work.

VI Shikdar's report - No 35 - dated 17th April 1879 stating that he has sent Bhikhamanna and Pyayappa to the Laluk Catcherry; and his No 581 reporting Ramanna's death.

The 2nd Defendant filed exhibits I to IV.

I, II & III. Extracts from C, B, and the Acquittance Roll of Patels for 1879-80.

IV. Copy of "Trasal Patti" for the year 1875, bearing the signature of Vadamma.

The Plaintiff examined 9 witnesses.

The first witness Ghannaiya deposed that he knew the parties and Ramanna, that Vadamalanna and his sons Kuttappa and Ramanna were doing the work in succession, that Ramanna died about 10 or 15 years ago, and as he was ignorant of accounts he was getting the work done by Vadamma and, on his death, by Pyayappa.

Nanjundaiya (2nd witness) stated that Ramanna was doing the Patel work & before him his father Vadamalappa, that Vadamalanna Plaintiff's father did the work for 10 years and died about 10 or 15 years back. In cross examination he said that Ramanna was doing the Patel work from his 19th year till his death.

Ramanna (Plaff's 3rd witness) deposed that Ramanna was doing the Pateli work, that after him Vadamma did the work for about 20 years and died 2 years before Ramanna, and that since then Pyayappa had been doing the work.

The 4th witness Mannappa, Plaintiff's uncle deposed that the office belonged to the family and that he had no objection to the Plaintiff's appointment.

The 5th, 6th & 8th witnesses who are Plaintiff's uncles & brother deposed that they had no objection to the Plaintiff's appointment.

The 1st Defendant —
Pyayappa examined 5 witnesses.

The 1st witness Srinivasa Rao stated that he was the Shekdar of Krishnarajapura Hobli, that he ^{submitted} ~~made~~ the reports nos 702 & 35 — that he sent to ~~the~~ and sent Pyayappa & Chikka Mannappa to the Tuluk catchery, that he

* Ex. nos 5 V & VI

did not know what they deposed there, that Pateli Sannad to Pyayappa was received from the District office on 23-2-80, and that he did not remember to have taken ^{any deposition from} Ramanna to the effect that the Pateli ~~should~~ ^{might} be given to Pyayappa.

Venkatappa (Defendants' 2nd witness) deposed that one Timmaraya-
gonda, ^{a Vakkaliga} was the Patel at first, that after ~~some~~ his death Ramegonda (of Ligala caste) was appointed and did the work for 2 or 3 years, after which Reyappa was appointed and that Vadamma never did the Pateli work.

Venkatagiriappa (Def's 3rd witness) deposed that he ~~deposited~~ wrote the names of the ryots against their marks in Ex-D, that the sentence in it about Ramanna's doing Govt work differed from the rest & was suspicious, but he did not remember whether it was inserted at the time of

writing the exhibit or subsequently, that Ex. E was written & signed by him, that there was no Patel before Ramanna, and "Potayi-Gondike" was held by Timma-rayagonda, that these two men were not related to each other but were of different castes, and that Vadamma was not doing the work.

The 1st Defendant as his own witness deposed that he and the 2nd Defendant went to the Laluk Cutcherry and gave depositions before the Peshkar, that Venkata-giriappa wrote the name of Bhikkamannappa to his mark in his deposition.

Venkatagiriappa deposed that Bhikka Mannappa gave the deposition before the Peshkar, that it was ^{in the} writing of Munshi Pampanna and that he (Venkatagiriappa) wrote the name of Bhikka Mannappa to his mark on it.

The Court examined one witness Pampanna (referred to by Venkatagiriappa) who stated that the deposition of Chikka Mannappa dated 28th June 1879 was in his handwriting, he ~~did~~ ^{did not} had no acquaintance of Chikka Mannappa and could not point out the man that gave the deposition in question, ~~that~~ he did not know who wrote the name of Chikka Mannappa in it, but the hand-writing resembled that of Venkatagiriappa.

The 2nd Defendant ^{knows} deposed that he did not ^{know} how the 1st Defendant got the Pateli, that he did not give the deposition dated 28th June 1879, that he was not told by the Shekdar & the Shanbhoy to go to the Laluk Cutcherry, to give deposition, nor did he go there, that Ryotappa in collusion with the Shanbhoy & the Shekdar might have done the above to get the Pateli, that about a year ago he complained to the Amildar about the Pateli, but ~~he~~ he ~~was~~ was given an endorsement to say that it could not be given to him, that he appeals against this order, but the appeal was rejected for non-presentation.

* No 34, of 17-7-90, stating that the denial of his having given the deposition could not be believed as the deposition was recorded before a responsible officer.

Vide the order in Rev. appeal no 1 of 1891 passed by Mr. Raghunatha Rao.

within the prescribed time, and that he had no objection to the Plaintiff's appointment.

The Assistant Commr found that Plaintiff was entitled to the office in question. As regards the second issue he found that Ramanna, the original registered holder did not get the office registered in the name of the 1st Defendant; that the Plaintiff did not give his consent to transfer the office to the 1st Defendant, and that the 2nd Defendant was the only party who consented to it according to his deposition dated 28th June 1879. He settled the question of limitation in favour of the Plaintiff; and submitted his report with his opinion that the Plaintiff should succeed in his suit.

The Deputy Commissioner passed the following decision:—

* * * * *

From a report of the Shambhoj dated July 1868, I find that before 1874-75 there had been no Miresi Patel in the village, which clearly shows that the office was newly created at the Revision of 1874-75. Such an office can in no way be considered hereditary. The Plaintiff has thus no ~~ant~~ right to bring a Summary Suit. Therefore so far as this suit

* En. E.

suit is concerned, it must be dismissed with costs. I need not consider the other issues."

The Plaintiff has now appealed to Government against the above decision on the grounds,

I that the Lower court erred in finding that the office in question is not hereditary to the Plaintiff's family,

II that the decision of the Lower Court in this respect is against the weight of evidence and probabilities of the case, &

III that the Plaintiff has satisfactorily proved that the office is hereditary to his family, and that the 1st Defendant has no right whatever to the same, being a member of a family unconnected with that of the Plaintiff.

S.K.

3/7/93

Appeal No 55 of 1892-93.

<u>Appellant</u>	<u>vs</u>	<u>Respondents</u>
Chik Venkatadri		1. Peyappa
by Mr. H. J. Narasinga		2. Chik Mannappa
		by Mr. B.
		Sreenivasrao

Facts of the case -

The appellant seeks to recover the office of Patel of Hora - maru in the Bangalore Taluk. There was no Patel for that village prior to 1874-75, when, for the first time, the Government appointed one Ramanna, a respectable ryot of the village, as Patel. He died in January 1880 leaving a son, the 2nd Respondent. The latter having stated that ~~being illiterate~~ he did not want the office and that it might be conferred on the 1st Respondent who is Ramanna's brother's daughter's son, the 1st Resp^t was appointed as Patel on 23rd February 1880. On the 28th July 1891 the appellant, ~~who~~ who is Ramanna's brother's son, filed a suit claiming the office as an undivided member of a joint family entitled to succeed to Ramanna's estate, but the Deputy Comm^r dismissed the suit, holding

that the office, which had ~~not~~ been newly created at the revision of 1874-75, was not hereditary. It is urged in appeal that the office is hereditary.

At the hearing it was admitted that there was no regular Patel in the ~~poor~~ village prior to 1874, but it was urged that Ramanna was the Gondra of the village ever before his appointment as Patel in 1874. Exhibits D & E relied on by appellant show that in 1868 the Taluk authorities instituted an enquiry in view to appoint a Patel; that Ramanna among others stated that Govt might give the office to any one whom it liked; and that the Shamhoj stated that there was no Patel getting any Mirasi, but that Ramanna was one of the principal propertors in the village possessing competence, viewed as a Gondra by the villagers, and honored by them on marriage occasions.

The office having been discontinued created in 1874/75 and having been conferred on 2^d Sept, 1875, the app't had no

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right to question the ad of fact.
The ground upon which
the present suit is based,
namely, that the appl had a
hereditary right to the office, is
wholly untenable. - This appears
is therefore dismissed.

End W. Appl

W. H. H. H.
Mamachandran

28-8-93

LD 176-92-1

(General Serial No. 32)

1892.

(2)

No. 697

Name of Petitioner. Chikka Venkatadu

Village. Horamavoo

Taluk. Bangalore

District. Do

Date of Arzi. 14 / 9 / 92

Date of Receipt. Do.

Date of Disposal.

No. of Enclosures.

ABSTRACT.

Petitioner appears against the decision of the Deputy Commr. in Rev. Suit No 6 of 1891-92, about the office of Patel of Horamavoo, on the ground that he has satisfactorily proved that the office is hereditary to his family.

The decision appealed against is to the effect that the office in question was ^{newly} created in 1874-75. that

- (1) Stamp Correct
(2) Order produced
(3) Appeal in time
(4) Rule I cl (1)
Call for Prof
with report
BO
H
23/9/92

such an office can in
no way be considered hereditary,
that Plaintiff (Pet^r) has thus
no right to bring a summary
suit and that therefore

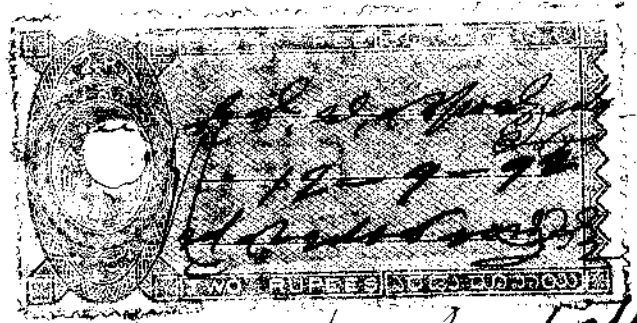
20.

far as this suit is concerned,
must be dismissed
with Costs.

S.V.

18/9/92
 18/9/92
 21/11/92

14-9-92
 697R
 12/9/93
 (1)



A S. No 55
 Before the Revenue Officer
 His Highness the Maharaja of Mysore
 92-93 Revenue Officer's Office
 1892

Chikka Venkataswami - Plaintiff - Shalakar

1. Pety appah
 2. Chikka Manna appah
- } Defendants - Respondents.
- both residents of Horanavalli village
 Basagaluru Taluk.

The Shalakar commenced most respectfully beg to prefer this appeal against the decision of the Deputy Commissioner in Revenue Suit No 6 of 1891-92 dated the 29th August 1892 for the following reasons, to-wit:

1. That the Lower Court erred in finding that the office of - Pabail of the village in question is not hereditary to the Plaintiff's family.
2. That the decision of the Lower Court in this respect is against the weight of

22 of evidence and probabilities of
the case

That the Plaintiff has satisfactorily
proven that the office of hotel is
hereditary to his family and that the
Defendant has no right whatever
to the same, he, being a member of a
family well connected with that of the
Plaintiff;

Barcel rec
17 to Defendant
rec. —

H. F. MacLennan
advocate for the Plaintiff

23

Pet
413.

LR 176-92-2

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Petition No. 697

dated 4th Sept 1892 received at the

Dewan's Office from Chikkavenkata

of Horamavoo, Bangalore,
appealing against the Dy Commr's
order in re the Pateh of the said
village,

is forwarded, together with its one

enclosures to the Deputy Commr, Bangalore
Distt, for submission of Report
with a report on the facts of
case and on the points taken
in the petition2. The Petn should be
returned.

By Order,

Draft.

M. K.

For Chief Secretary.

BANGALORE,

Sept 1892

13-Oct. 1892

M. K.

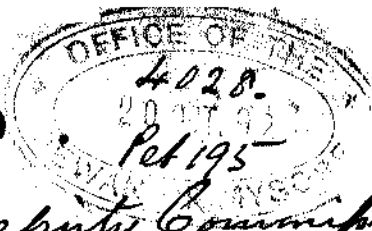
N

Petitor
M. N.
20/10/92

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(General Serial No. 30.)

189



From

The Deputy Commissioner
Bangalore District

To

The Chief Secretary
to the Dewan of Mysore

Dated 18th October 1892

Despatched

Received

Enclosures No. 1 file

General No.

No. 345.

His official Memo No. 413 dated 24th ultimo, forwarding petition from Chikk Venkatacharya of Horamavoo for submission of proceedings connected with the Pateli office of Horamavoo village, Bangalore Taluk, with a report on the facts of the case and on the points taken in the petition.

Has the honor to forward, herewith, proceedings in Revenue Suit No 6 of 1891-92 on the file of this Court

22/10/92

LA 176-92-3

In the Memo No. 4479 of 1892

regarding the Pateli
office of Horamara -
village, referred to in
the petition

2 The enclosures received
with the above ~~are~~ herewith
returned'

3 The judgment con-
tains a full account
of the case.

Chewara Nay
for Deputy Commissioner
Bangalore District

(10)

Appeal No. 55 of 1892-93

Appellant.

Vs.

Respondents

Chik. Venkatadri
of Horamavu, Bangalore Taluk,
by Mr. K. J. Karambhengar

Peyappa
2. Chik. Mannappa
by Mr. B. Sreenivassengar.

Decision.

Facts of the case.

The Appellant seeks to recover the office of Patel of Horamavu in the Bangalore Taluk. There was no Patel for that village prior to 1874-75 when, for the first time, the Government appointed one Ramanna, a respectable ryot of the village, as Patel. He died in January 1880 leaving a son the 2nd Respondent. The latter having stated that he did not want the office and that it might be conferred on the 1st Respondent, who is Ramanna's brother's daughter's son, the 1st Respondent was appointed as Patel on 23rd February 1880. On the 28th July 1891 the Appellant, who is Ramanna's brother's son's son, filed a suit claiming the office as an

undisputed

undivided member of a joint family ²
entitled to succeed to Ramanna's
estate, but the Deputy Commissioner
dismissed the suit, holding that the
office which had been newly created
at the revision of 1874-75, was not her-
editary. It is urged in Appeal that
the Office is hereditary.

2. At the hearing it was admitted
by the Appellants ^{Advocate} that there was no
regular Patel for the village prior
to 1874, but it was urged that Raman-
na was the Gowda of the village even
before his appointment as Patel in 1874.

Exhibits D and E relied on by Appellant
show that in 1868 the Taluk authorities
instituted an enquiry in view to appoint
a Patel; that Ramanna, among others,
stated that Government might give
the office to any one whom it liked;
and that the Shambhog stated that
there was no Patel getting ^{any} Mirasi, but
that Ramanna was one of the principal
ryots in the village possessing competence,
viewed as a gowda by the villagers, and
honored by them on marriage occasions.

Decision.

The office having been newly created
in 1874-75 and having been conferred
by Government on ~~Successor in the office~~ 2nd

Respondents.

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late father, the Appellant had no
right to question the act of Government.
The ground upon which the present
suit is based, namely, that the Appel-
-lant had a hereditary right to the
office, is wholly untenable. This appeal
is therefore dismissed.

MR

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MR

Redraft

"By Order"

Chief Secretary

(
No. $\frac{4479}{P.F. 35-93}$
)

Copy forwarded to the Deputy
Commissioner, Bangalore District, with
the proceedings received with his No.
345 dated 18 October 1892.

"By Order"

Chief Secretary

copied compd
Thorp. S.V.

MR

12-9 1893

Endorsement granted to Chik Venkatadri of Horamavu,
Bangalore Taluk (by Mr. K. T. Narsimhiengar),

in reply to his Petition Registered No. 697 dated 14th September
1892, appealing against the Deputy Commissioner's order
in re the Pateli of — the said village.

Petitioner is informed that ^{as} the office ^{was} ~~having been~~ newly
created in 1874-75 and ~~having been~~ conferred by
Government on 2nd Respondent's late father, the
~~Appellant had no right to question the act of~~
~~Government. The ground upon which the present~~
~~suit is based, namely, that the Appellant had a~~
~~hereditary right to the office, is wholly untenable.~~
This appeal is therefore dismissed.

The enclosure is herewith returned.

"By Order"

Redraft.

Chief Secretary.